SINGLE BENCH (1)

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

WRIT PETITION NO.4678 OF 2005

PETITIONER

Awadhesh Narayan Mishra, S/o Rama Shankar Mishra, aged 55 years, Occupation Service, presently posted as Assistant Manager (Accounts) CG Rajya Van Vikas Nigam Maryadit, Barnawapara Divn. Raipur (Chhattisgarh)

VERSUS

RESPONDENTS

1. Chhattisgarh Rajya Van Vikas Nigam Maryadit through its Managing Director, H.O. Lokash Plaza, Shankar Nagar Road, Shankar Nagar, Raipur, District Raipur (Chhattisgarh)

2. Managing Director, Chhattisgarh Rajya Van Vikas Nigam Maryadit, H. O. Lokash Plaza, Shankar Nagar Road, Shankar Nagar, Raipur District Raipur (Chhattisgarh)

3. B. R. Jain, Dy Manager (Acctts.) Chhattisgarh Rajya Van Vikas Nigam Maryadit, H. O. Lokash Plaza, Shankar Nagar Road, Shankar Nagar, Raipur District Raipur (Chhattisgarh)

P.R. No. 4678/05
Presented by Shri. Rohan Rubu
dated 16/9/05

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS:

शपथ आयुक्त एन.के. शुक्ला बिलासपुर (छ.ग.) बिलासपुर तहसील कोर्ट

The petitioner, above-named, most respectfully begs to submit as under:

1. **PARTICULARS OF THE PETITIONER:**

   As mentioned in the Cause Title above.

2. **PARTICULARS OF THE RESPONDENTS:**

   As mentioned in the Cause Title above.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक W.P. No. 4678 ..... **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

17.10.2005

Shri Manindra Shrivastava, Sr. Advocate with Shri Afroj Khan, for the petitioner.

I.A.No.8403 of 2005

This is an application for urgent hearing. The matter is taken up on Board. This interim application stands disposed of.

W.P.No.4678/2005

Heard.

By way of this writ petition filed under Article 226 of the Constitution of India, the petitioner, who has been transferred (locally shifted) from Barnawapara Project, Division Raipur to the Head Office, Raipur by impugned order dated 12.9.2005, has challenged the validity of the aforesaid order.

Learned counsel for the petitioner submits that this order of transfer has been passed to anyhow remove the petitioner from Barnawapara Project, Mandal Raipur for bringing respondent no.3 in his place, for which a separate order dated 12.9.2005 vide Annexure P-2 has been passed by the authority concerned.

The law in relation to interference by the Courts in the matter of transfer is now well settled. The Apex Court while dealing with the matter of ***Kendrikya Vidya Sangathan –Vs- Damodar Prasad Pandey, 2004 AIR SCW 5563*** observed that the transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by *mala-fide* or infraction of any prescribed norms of

18.10.05

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मामला क्रमांक ..... W.P. NO. 4678 ..... **सन् 200**5

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

principles governing the transfer. (Please see *Ambani Kanta Ray – Vs- State of Orissa – 1995 (Suppl.) 4 SCC 169*). Unless the order of transfer is vitiated by *mala fide* or is made in violation of operative guidelines, the Court cannot interfere with it. (See Union of India – Vs- S.L. Abbas AIR 1993 SC 2444). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In ***Union of India & others –Vs- Janardan Debanath & another (2004) 4 SCC 245***, it was observed as follows:

> *"No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala-fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such order passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in* ***National Hydroelectric Power Corpn. Ltd. –Vs- Shri Bhagwan (2001) 8 SCC 574.***

19.10.05

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No 4678 **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned counsel for the petitioner could not point out any specific grounds on the basis of which it can be assumed that the transfer of petitioner has been affected by *mala-fide* and the same is vitiated for the said reason.

In view of the fact that the petitioner has been locally shifted from one office at Raipur to the head office at Raipur itself and there is no change of place and further in view of the fact that the petitioner is holding a transferable post and the impugned order dated 12.9.2005 does not put the petitioner to a disadvantageous position and it does not show either any mala-fide on the part of the authorities or passing of the order in contravention or violation of any statutory rules, I am not inclined to interfere with this order of transfer in this writ petition filed by the petitioner.

The petition has no merit and the same is dismissed in limine.

Consequently, M.W.P.No.3794/2005 for grant of ad interim relief stands disposed of.

Sd/-
Sunil Kumar Sinha
Judge

Rao

18.10.05